

REMARKS

Claims 1-22 were examined. Claims 1, 8, 14 and 20 are amended. Claims 1-22 remain in the application.

The Patent Office rejects Claims 1-22 under 35 U.S.C. §102(b). Claims 1-7 and 20-22 are also rejected under 35 U.S.C. §102(e). Applicant respectfully requests consideration of the pending claims in view of the above amendments and the following remarks.

A. 35 U.S.C. §102(b): Rejection of Claims 1-22

The Patent Office rejects Claims 1-22 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 3,871,547 of Wharton (Wharton). Referring to **Figures. 1-5**, Wharton describes a device for sealing an opening in an endwall of a container, the device including first plate 12 having a pad 16 of resilient material attached to one surface of the plate with edges of plate 12 extending around pad 16 (*see, Figure 1 and Figure 3*) and adapted to sealingly cover the opening in the end wall of the container. As shown in **Figures 1, 2 and 4**, edge portions of pad 16 are angled over their entire thickness (angled inward) relative to first plate 12. Second plate 14 is attached to first plate 12 so as to be at a substantially right angle thereto in a sealing position with the pad on the first plate being on the inside of the angle. A tongue extending from second plate 14 is sufficiently biased so as to slide under and bear against the lower surface of the rim of the container when the device is in a sealing position. Wharton also discloses ridge 32 attached to first plate 12 and extending downwardly therefrom. From **Figure 3**, it appears that a lip of a container is positioned at a junction of first plate 12 and second plate 12.

Independent Claim 1 is not anticipated by Wharton, because Wharton does not describe an apparatus including a planar base portion and a protrusion coupled to and having a sidewall portion extending from the base portion, the protrusion having dimensions to fit within the consuming opening.

Referring to Wharton, Wharton does not describe at least a portion of a sidewall portion of pad 16 extending perpendicularly from first plate 12. Wharton describes pad 16 having sidewall portions each angled inward over their entire thickness relative to first plate 12 (i.e., an angle less than perpendicular).

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reason stated with respect to Claim 1, Claims 2-7 are not anticipated by Wharton.

Independent Claim 8 describes an apparatus including a planar base portion and a protrusion connected to a surface of the base portion. Claim 8 provides that when the protrusion is in an opening in a lid of a container, the surface of the base portion contacts the lid. Claim 8 is not anticipated by Wharton, because Wharton describes first plate 12 having a non-planar body and extending from second plate 14 with ridge 32 disposed so as to secure a lip of a container between ridge 32 and a junction of first plate 12 and second plate 14. It does not appear Wharton discloses the surface of first plate 14 to which pad 15 is coupled contacting the lip. Regardless, Wharton does not disclose a first plate 14 having a planar body.

Claims 9-13 depend from Claim 8 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 8, Claims 8-13 are not anticipated by Wharton.

Claims 14-19 describe an apparatus including a base portion including an attachment region to couple the base portion to a keychain and a protrusion to fill an opening in a lid of a container. Applicant has been unable to find any teaching in Wharton of a base portion including an attachment region to couple the base portion to a keychain. Accordingly, Claims 14-19 are not anticipated by Wharton.

Independent Claim 20 relates to a method including inhibiting liquid in a beverage container from escaping through a consuming opening in a lid of the beverage container utilizing a protrusion coupled to and extending from a base portion of an apparatus. The base portion has a planar body from which the protrusion protrudes.

Claim 20 is not anticipated by Wharton, because Wharton does not describe an apparatus including a base portion and a protrusion, wherein the base portion has a planar body from which the protrusion protrudes.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Wharton.

Applicant respectfully requests that the Patent Office withdraw the rejection to Claims 1-22 under 35 U.S.C. §102(b).

B. 35 U.S.C. §102(b): Rejection of Claims 1-7 & 20-22

The Patent Office rejects Claims 1-7 and 20-22 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 3,442,377 of Angelus (Angelus).

Angelus describes a sheet of a thermoplastic material having at least one plug or sealing portion extending therefrom. FIG. 2 shows a side view of a sheet including plug 12, 12A, and 12B. Each of plug 12, 12A, and 12B have angled sidewalls relevant to sheet 10. Thus, plug 12, 12A, and 12B do not extend perpendicularly from sheet 10.

Claim 1 is not anticipated by Angelus, because Angelus does not describe an apparatus including a base portion and a protrusion having a portion extending perpendicularly from the base portion. As noted, the plugs of Angelus have angled sidewalls.

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Angelus.

Independent Claim 20 describes a method comprising inhibiting a liquid in a beverage container containing a detachable conical shaped lid from escaping through a consuming opening in the lid utilizing a protrusion coupled to and extending perpendicularly from a base portion of an apparatus.

As noted above, Angelus describes plugs extending at an angle from a surface of sheet 10. Further, Angelus describes plugs to seal openings in cans, not detachable conical shaped lids.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Angelus.

Applicant respectfully requests that the Patent Office withdraw the rejection to Claims 1-7 and 20-22 under 35 U.S.C. §102(b) as anticipated by Angelus.

C. 35 U.S.C. §102(b): Rejection of Claims 1-7 & 20-22

The Patent Office rejects Claims 1-7 and 20-22 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 3,650,432 of Easton et al. (Easton).

Easton describes a seal 20 of a substantially flat base surface or body portion 21 and skirt portion 22 having a generally conical structure extending from an angle A

within a range of approximately 5° to approximately 25° with a line 24 disposed vertically to rim 23 or top 11 of can 10.

Independent Claim 1 is not anticipated by Easton, because Easton does not describe an apparatus including a base portion and a protrusion coupled to and extending and having a portion extending perpendicularly from the base portion. As noted above, Easton describes skirt portion 22 extending at an angle A.

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Easton.

Claim 20 is not anticipated by Easton, because Easton does not describe a method including inhibiting a liquid in a beverage container containing a detachable conical shaped lid utilizing a protrusion coupled to and a portion extending perpendicularly from a base portion of an apparatus. As noted above, Easton describes seal 20 extending at an angle A from body portion 21 of seal 20.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Easton.

Applicant respectfully requests that the Patent Office withdraw the rejection to Claims 1-7 and 21-22 under 35 U.S.C. §102(b) as anticipated by Easton.

D. 35 U.S.C. §102(b): Rejection of Claims 1-7 & 14-22

The Patent Office rejects Claims 1-7 and 14-22 under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 2,841,307 of Yoder (Yoder).

Yoder describes a closure device for sealing a generally triangular aperture formed in the top of a container or can. Closure device D includes wedge-shaped plug 20 and generally oval top piece 22. As indicated in **Figures 4 and 5**, the outwardly-facing surfaces 30 of walls 24, 26 and 28 of plug 20 taper inwardly and downwardly from their upper ends.

Claim 1 is not anticipated by Yoder, because Yoder does not describe an apparatus comprising a base portion and a protrusion coupled to and having a portion extending perpendicularly from the base portion. As noted, Yoder describes walls of plug 20 tapering inwardly and downwardly from oval top piece 22.

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Yoder.

Independent Claim 14 describes an apparatus comprising a base portion and a protrusion to fill an opening in a lid of a container, the protrusion coupled to and having a portion extending perpendicularly from the base portion.

Claim 14 is not anticipated by Yoder, because Yoder does not describe a protrusion coupled to and having a portion extending perpendicularly from the base portion. As noted above with respect to Claim 1, Yoder describes tapered sidewalls of its plug.

Claims 15-19 depend from Claim 14 and therefore all the limitations of that claim. For at least the reasons stated with respect to Claim 14, Claims 15-19 are not anticipated by Yoder.

Independent Claim 20 is not anticipated by Yoder, because Yoder does not describe inhibiting a liquid in a beverage container containing a detachable conical shaped lid utilizing a protrusion coupled to and a portion extending perpendicularly from a base portion of an apparatus. Yoder describes closure devices for cans, not beverage containers containing a detachable conical shaped lid. Yoder also describes plug 20 having tapered walls.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Yoder.

E. 35 U.S.C. §102(e): Rejection of Claims 1-7 & 20-22

The Patent Office rejects Claims 1-7 and 20-22 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,644,490 of Clarke (Clarke).

Clarke describes lid 1 including arm portion 3 of undeformed sheet material extending in a radial direction from a position on rim 9 of lid 1 adjacent aperture 10, arm portion including closure member 11 in the form of a hollow upwardly projecting tapering dome.

Independent Claim 1 is not anticipated by Clarke, because Clarke does not describe an apparatus including a base portion and a protrusion coupled to and having a portion extending perpendicularly from the base portion, wherein the base portion is

separable from the lid. As noted above, arm portion 3 of lid 1 of Clarke is coupled to lid 1 and has closure member 11 of a tapering dome. Thus, arm portion 3 is connected to the lid and closure member 11 tapers from a surface of arm portion 3.

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Clarke.

Claim 20 is not anticipated by Clarke, because Clarke does not describe inhibiting a liquid in a beverage container from escaping utilizing a protrusion coupled to and a portion extending perpendicularly from a base portion of an apparatus, where the base portion is separable from the lid. As noted above with respect to Claim 1, Clarke describes a arm portion 3 that is connected to lid 1 and closure member 11 tapering from a surface of arm portion 3.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Clarke.

F. 35 U.S.C. §102(e): Rejection of Claims 1-7 & 20-22

The Patent Office rejects Claims 1-7 and 20-22 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,886,707 of Giraud (Giraud).

Giraud describes lid 10 including hinged flap 50 connected to the lid by hinge 60. Flap 50 includes button 52 to form an interference fit with the opening in lid 10.

Independent Claim 1 is not anticipated by Giraud, because Giraud does not describe an apparatus including a base portion and a protrusion coupled to and extending from the base portion, wherein the base portion is separable from the lid. As noted above, flap 50 is connected through hinge 60 to the lid of Giraud.

Claims 2-7 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Giraud.

Independent Claim 20 is not anticipated by Giraud, because Giraud does not describe inhibiting a liquid in a beverage container with an apparatus including a base portion that is separable from the lid of the container. As noted above, Giraud teaches a lid having flap 50 coupled thereto and not separable therefrom.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Giraud.

G. 35 U.S.C. §102(e): Rejection of Claims 1-7 & 20-22

The Patent Office rejects Claims 1-7 and 20-22 under 35 U.S.C. §102(e) as anticipated by U.S. Patent Application No. 2003/0089714 of Dart et al. (Dart).

Dart describes a reclosable lid for a drinking cup including cap 12 with plug assembly 14 connected to the cap.

Independent Claim 1 is not anticipated by Dart, because Dart does not describe an apparatus including a base portion and a protrusion, wherein the base portion is separable from the lid. As noted above, Dart discloses a plug assembly that is connected to the cap and not separable therefrom.

Claims 2-7 depend from Claim 1 and therefore contain the limitations of that claim. For at least the reasons stated with respect to Claim 1, Claims 2-7 are not anticipated by Dart.

Claim 20 is not anticipated by Dart, because Dart does not describe a method including inhibiting a liquid in a beverage container from escaping utilizing an apparatus including a base portion that is separable from a lid of the container. As noted above, Dart describes a plug assembly that is connected to its cap and not separable therefrom.

Claims 21-22 depend from Claim 20 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to Claim 20, Claims 21-22 are not anticipated by Dart.

Applicant respectfully requests that the Patent Office withdraw the rejection of Claims 1-7 and 20-22 under 35 U.S.C. §102(e) as anticipated by Dart.

CONCLUSION

In view of the foregoing, it is submitted that Claims 1-22 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated : March 9, 2006

By: William Thomas Babbitt
William Thomas Babbitt, Reg. No. 39,591

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone (310) 207-3800
Facsimile (310) 820-5988

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Nedy Calderon 3/9/06
Nedy Calderon Date